

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

WESLEY S. BATTEY JR,

Plaintiff,

v.

JASON SPURLING,

Defendant.

Case No. 2:18-cv-01362-JAD-PAL

**REPORT OF FINDINGS AND  
RECOMMENDATION**

This matter is before the court on Plaintiff Wesley S. Battey Jr.'s failure to comply with the court's Order (ECF No. 4). This proceeding is referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4 of the Local Rules of Practice.

Plaintiff submitted a complaint as part of his initiating documents (ECF No. 1) on July 24, 2018 but he did not submit an application to proceed *in forma pauperis* ("IFP") or pay the \$400 filing fee. On August 21, 2018, the court entered an Order (ECF No. 4) directing the Clerk of the Court to mail Plaintiff a blank IFP application and allowing him to file a completed IFP application or pay the \$400 filing fee on or before September 19, 2018. *Id.* The Order warned Plaintiff that a failure to file an IFP application or pay the filing fee would result in a recommendation to the district judge that this case be dismissed. Plaintiff has not filed a completed IFP application, paid the filing fee, requested an extension of time, or taken any other action to prosecute this case.

Accordingly,

**IT IS RECOMMENDED** that:

1. This action be DISMISSED without prejudice to the Plaintiff Wesley S. Battey Jr.'s ability to commence a new action in which he either pays the appropriate filing fee in full or submits a completed application to proceed *in forma pauperis*.

Dated this 4th day of October 2018.

## NOTICE

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